



Gary Ewart
*Director,
Government Relations*

Fran DuMelle
*Consultant,
International Health*

Washington Office
1150 18th Street, N.W.
Suite 900
Washington, DC 20036-3816
Phone: (202) 785-3355
FAX: (202) 452-1805
Internet: www.thoracic.org

National Headquarters
61 Broadway
New York, NY 10006
Phone: (212) 315-8700
Internet: www.thoracic.org

Thomas R. Martin, MD
President

Adam Wanner, MD
Past-President

Homer Boushey Jr., MD
President-Elect

Sharon I. S. Rounds, MD
Vice President

Peter D. Wagner, MD
Treasurer

Carl C. Booberg
Executive Director

Official Journals

American Journal of
Respiratory and Critical
Care Medicine ®

American Journal of
Respiratory Cell and
Molecular Biology®

Internet: www.atsjournals.org

Dennis Archer, JD
President-Elect
American Bar Association
740 15th Street, N.W.
Washington, DC 20005-1019

Dear Mr. Archer:

As president of the American Thoracic Society (ATS) I want to express our extreme concern with the medical criteria used in the American Bar Association policy: Asbestos Litigation Policy adopted in February 2003. The medical criteria used in the document do not reflect the current state of screening and diagnosis for asbestos-related diseases

The ATS is one of the leading organizations in the scientific and medical community regarding the diagnosis and treatment of asbestos related diseases. The American Thoracic Society (ATS) founded in 1905, is an independently incorporated, international professional and scientific society which focuses on respiratory and critical care medicine. Today, the Society has approximately 13,500 members are engaged preventing and treating respiratory disease around the globe, through research, education, patient care and advocacy.

The ATS does not have a position on the need for, merits of or construction of asbestos litigation reform legislation. As physicians who diagnose, treat and research asbestos-related conditions, we are however committed to ensuring that appropriate medical criteria is used and applied in whatever legislative proposals move forward.

The ATS has the following concerns the medical criteria listed in the ABA Asbestos Litigation Report:

Existence of Asbestosis

Significant asbestosis can be present with an x-ray profusion less than 1/0 or even with a normal x-ray. Impairment from this asbestosis can be manifest by demonstrated decrease in diffusing capacity (DL) (with or without a decrease in forced vital capacity, FVC) or abnormality in ventilatory and gas exchange parameters on respiratory exercise testing. Diffusing capacity is available at any lung center, is standardized¹ and is known to be abnormal in interstitial lung disease (ILD) even when FVC and x-ray are normal. Perversely, if DL is significantly decreased without a decrease in FVC, the x-ray standard requirement of the ABA standard (2/1) is greater than what is in common medical practice.

1) American Thoracic Society. Single breath carbon monoxide diffusing capacity (transfer factor). Recommendations for a Standard Technique. Am. Rev. Resp. Dis. 1987; 136:1299.

Impairment from asbestos can be manifest by the FVC when the x-ray is normal; such impairment is not admissible under the ABA proposal.

Asbestosis can be detected radiographically by CT scan when the x-ray is normal. CT scan is universally available in the U. S. and used by all pulmonologists in a fuller assessment of ILD.

Pleural Scarring

The section on impairment from asbestos-related pleural scarring is vastly insufficient. Diffuse pleural scarring can be associated with greatly diminished FVC regardless of the extent or thickness of the scarring or its bilaterality². It is therefore exclusionary to insist on "bilateral" diffuse pleural thickening of at least B/2.

Analysis of large numbers of patients with asbestos-related pleural scarring has shown that extensive circumscribed pleural scarring is associated with a significant decrement in FVC sufficient to bring about impairment in individual patients.

The ATS will soon be publishing a revised version of: The Diagnosis of Nonmalignant Diseases related to Asbestos. The revised document will provide the most recent data and professional recommendations on the definitions, diagnosis and treatment of nonmalignant asbestos-related diseases. The ATS strongly encourages the American Bar Association and other policy makers to consider this forthcoming document when establishing medical criteria in asbestos-related legislation.

Sincerely,



Thomas R. Martin, M.D.
President,
American Thoracic Society

Cc: Members of the House Judiciary Committee
Members of the Senate Judiciary Committee

2) Lillis R, Miller A, Godbold J et al. Pulmonary function and pleural fibrosis: quantitative relationships with an integrative index of pleural abnormalities. Am J Industr. Med 1991; 20:145.